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OFFICE OF PETITIONS

In re Application of :  
Jie Zhang :  
Application No. 09/954,904 : DECISION ON PETITION  
Filed: September 18, 2001 : UNDER 37 CFR 1.78(a)(3)  
Attorney Docket No. 24055.CIP2 :  
:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 8, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional application No. 09/878,558.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy items (1) and (3) above.

With respect to item (1), Applicant has not submitted a separate amendment to the specification. Rather, the reference to application No. 09/878,558 was contained in the petition. Pursuant to 37 CFR 1.4(c), the amendment must be contained in a separate paper.

With respect to item (3), Applicant has not submitted a statement "the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional."

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

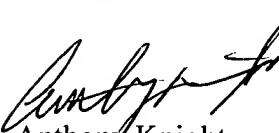
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Any questions concerning this matter may be directed to Petitions Attorney Cliff Congo at (571) 272-3207.



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